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6 **UNITED STATES DISTRICT COURT**  
7 **CENTRAL DISTRICT OF CALIFORNIA**  
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9 ABDULLAH NAIM HAFIZ,

10 Plaintiff,

11 v.

12 LOS ANGELES COUNTY JAIL  
13 HEALTH SERVICES, et al.,

14 Defendants.  
15

Case No. 2:22-cv-07319-JFW-PD

**ORDER DISMISSING ACTION  
FOR FAILURE TO  
PROSECUTE**

16 **I. Pertinent Procedural History and Plaintiff's Claims**

17 On October 6, 2022, Plaintiff Abdullah Naim Hafiz ("Plaintiff"), who is  
18 proceeding pro se, filed a Complaint under 42 U.S.C. § 1983 against  
19 Defendant Chief Medical Officer alleging that while he was confined at Los  
20 Angeles County Jail, he was denied treatment by a urologist for a serious  
21 medical condition and consequently suffered undue pain. [Dkt. No. 1 at 3-6.]

22 On October 12, 2022, the Court informed Plaintiff of his obligation to  
23 keep the Court apprised of his correct address and the consequences of his  
24 failure to do so. See Notice of Judge Assignment and Reference to a United  
25 States Magistrate Judge [Dkt. No. 3] (advising Plaintiff that he is required to  
26 notify the Court within five (5) days of any address change, and that if mail  
27 directed by the Clerk to his address of record is returned undelivered by the  
28 Post Office, and if the Court and opposing counsel are not timely notified

1 thereafter of his current address, the Court may dismiss the matter for want  
2 of prosecution) (citing Local Rule 83-2.4); Initial Case Management Order [Dkt.  
3 No. 8 at 3] (advising Plaintiff to immediately notify the Court of any change of  
4 Plaintiff's mailing address and cautioning Plaintiff that his failure to update his  
5 mailing address may result in this action being dismissed for failure to  
6 prosecute) (citing Local Rule 41-6); Case Management and Scheduling Order  
7 [Dkt. No. 38] (same).

8 On June 29, 2023, Defendant Sean Henderson, M.D., filed a notice of  
9 waiver of reply to complaint. [Dkt. No. 37.]

10 On December 28, 2023, and January 5, 2024, Plaintiff filed motions  
11 notifying the Court of his change of address, his release from custody, and his  
12 residence at the Tarzana Treatment Centers. [Dkt. Nos. 79, 82.]

13 On January 17, 2024, the Court issued an order denying Plaintiff's  
14 motions regarding Defendant's purported non-compliance with the Case  
15 Management and Scheduling Order and motion producing evidence that  
16 Defendant misled the Court. [Dkt. No. 80.] On that same date, the Court  
17 issued an order denying Plaintiff's motion for default judgment. [Dkt. No. 81.]  
18 Both orders were mailed to Plaintiff at his new mailing address, the Tarzana  
19 Treatment Centers, 18646 Oxnard Street, Tarzana, California 91356. Both  
20 orders were returned as undeliverable. On January 31, 2024, the order [Dkt.  
21 No. 80] was returned from the Tarzana Treatment Centers with a notation  
22 "RETURN TO SENDER—NOT DELIVERABLE AS ADDRESSED." [Dkt. No.  
23 84.] On February 8, 2024, the Court's order [Dkt. No. 81] was returned from  
24 the Tarzana Treatment Centers with a notation "RETURN TO SENDER—  
25 UNABLE TO FORWARD." [Dkt. No. 86.]

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27 On February 1, 2024, the Court issued an order granting Defendant Dr.  
28 Henderson's motion to extend the deposition deadline. [Dkt. No. 85.] On

1 February 12, 2024, that order [Dkt. No. 85] was returned from the Tarzana  
2 Treatment Centers with notations “RETURN TO SENDER—NOT AT THIS  
3 ADDRESS” and “RETURN TO SENDER—NOT DELIVERABLE AS  
4 ADDRESSED.” [Dkt. No. 87.]

5 On March 6, 2024, Defendant Henderson filed a motion to dismiss the  
6 case or extend the date to complete Plaintiff’s deposition. [Dkt. No. 88.]  
7 Defendant asserts that Plaintiff has failed to provide a valid address since his  
8 December 2023 release from the Los Angeles County Sheriff Department’s  
9 custody. [Id. at 2.] Defendant contends that mail sent by him to the new  
10 address provided by Plaintiff has been returned as undeliverable. [Id. at 3.]  
11 Defendant requests that Plaintiff’s lawsuit be dismissed due to his failure to  
12 comply with his obligation to provide a valid address. [Id. at 3-4.]

13 On March 7, 2024, the Court issued an order setting a briefing schedule  
14 for Defendant Henderson’s motion to dismiss the case or extend the date to  
15 complete Plaintiff’s deposition. [Dkt. No. 89.] Plaintiff’s opposition was due  
16 by March 22, 2024. [Id.]

17 On March 18, 2024, the Court’s minute order [Dkt. No. 89] was returned  
18 from the Tarzana Treatment Centers with notations “RETURN TO  
19 SENDER—NOT AT THIS ADDRESS” and “RETURN TO SENDER—  
20 UNABLE TO FORWARD.” [Dkt. No. 90.]

21 To date, Plaintiff has not provided an updated address or otherwise  
22 communicated with the Court about his case since January 2024.  
23 Accordingly, the case is now subject to dismissal for Plaintiff’s failure to  
24 prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and  
25 Local Rule 41-6.

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27 **II. Discussion**  
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1           Local Rule 41-6 requires a party representing himself to “keep the Court  
2 ... apprised of such party’s current address and telephone number, if any, and  
3 e-mail address, if any.” It allows for dismissal of lawsuits for failure to comply  
4 with the rule: “If mail directed by the Clerk to a *pro se* plaintiff’s address of  
5 record is returned undelivered by the Postal Service, and if, within fourteen  
6 (14) days of the service date, such plaintiff fails to notify, in writing, the Court  
7 and opposing parties of said plaintiff’s current address, the Court may dismiss  
8 the action with or without prejudice for want of prosecution.” Local Rule 41-6.

9           Plaintiff’s failure to keep the Court updated on his mailing address  
10 brings this case within the purview of *Carey v. King*, 856 F.2d 1439, 1441 (9th  
11 Cir. 1988) (per curiam), which examined when it is appropriate to dismiss a  
12 lawsuit for failure to prosecute, *see also Link v. Wabash R.R. Co.*, 370 U.S.  
13 626, 629–30 (1962) (“The power to invoke [dismissal] is necessary in order to  
14 prevent undue delays in the disposition of pending cases and to avoid  
15 congestion in the calendars of the District Courts.”).

16           In determining whether dismissal for lack of prosecution is warranted, a  
17 court must weigh several factors, including: (1) the public’s interest in  
18 expeditious resolution of litigation; (2) the court’s need to manage its docket;  
19 (3) the risk of prejudice to defendants; (4) the public policy favoring the  
20 disposition of cases on their merits; and (5) the availability of less drastic  
21 sanctions. *Carey*, 856 F.2d at 1440 (citation omitted). Unreasonable delay  
22 creates a rebuttable presumption of prejudice to the other party that can be  
23 overcome only with an affirmative showing of just cause by the petitioner. *In*  
24 *re Eisen*, 31 F.3d 1447, 1452-53 (9th Cir. 1994). Dismissal is appropriate  
25 under the foregoing analysis “where at least four factors support dismissal ...  
26 or where at least three factors ‘strongly’ support dismissal.” *Hernandez v.*  
27 *City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998) (citations omitted).  
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1 In this case, the first two factors – public interest in expeditious  
2 resolution of litigation and the need to manage the Court’s docket – weigh in  
3 favor of dismissal. The Court cannot hold this case in abeyance indefinitely  
4 based on Plaintiff’s failure to notify the Court of his correct address. *See*  
5 *Carey*, 856 F.2d at 1441 (affirming dismissal of action for lack of prosecution  
6 pursuant to local rule which permitted such dismissal when pro se plaintiff  
7 failed to keep court apprised of correct address; “It would be absurd to require  
8 the district court to hold a case in abeyance indefinitely just because it is  
9 unable, through plaintiff’s own fault, to contact the plaintiff to determine if  
10 his reasons for not prosecuting his lawsuit are reasonable or not.”). The third  
11 factor – risk of prejudice to Defendant – also weighs in favor of dismissal since  
12 a presumption of injury arises from the occurrence of unreasonable delay in  
13 prosecuting an action. *Anderson v. Air West, Inc.*, 542 F.2d 522, 524 (9th Cir.  
14 1976).


15 The fourth factor – the public policy favoring resolution on the merits –  
16 ordinarily weighs against dismissal. The fifth factor – the availability of less  
17 drastic sanctions – ordinarily counsels against dismissal. However, given the  
18 Court’s inability to communicate with Plaintiff based on his failure to keep  
19 the Court apprised of his current address, no lesser sanction is feasible.

20 In sum, four out of the five factors support dismissal. The Court  
21 concludes that dismissal for failure to prosecute is warranted.

22 For the foregoing reasons, this action is dismissed for failure to  
23 prosecute.

24 **IT IS SO ORDERED.**

25 Dated: April 12, 2024

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28 HONORABLE JOHN F. WALTER  
UNITED STATES DISTRICT JUDGE